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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEP 23 2003

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF WASHINGTON

9 JOHN C. KLAG, )  
10 Plaintiff, ) NO. CT-02-5022-EFS  
11 v. )  
12 THOMAS E. WHITE, ) PLAINTIFF'S RESPONSES TO  
SECRETARY, ) DEFENDANT'S OBJECTIONS  
DEPARTMENT OF THE ARMY, ) TO PLAINTIFF'S EXHIBIT LIST  
13 Defendant. )  
14 )

15 For the convenience of the Court and counsel during the September 24, 2003  
16 telephone Pretrial Conference in this matter, Plaintiff John Klag's responses to  
17 Defendant's Objections to Plaintiff's Exhibit List are set forth below in outline form.  
18 Plaintiff's Counsel has advised Defense Counsel that this document will be filed before  
19 the Pretrial Conference.

20 Exhibit Number: 2                   Exhibit Name: EEOC Enforcement Guidance

21 Government's Objection: Contains legal opinions; Court should instruct the  
22 jury.

23 Mr. Klag's Response: This is a bench trial

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27 PLAINTIFF'S RESPONSES TO DEFENDANT'S  
OBJECTIONS TO PLAINTFF'S EXHIBIT LIST - 1  
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2     **Exhibit Number: 3**

**Exhibit Name: DOD Investigative File Excerpt**

3     **Government's Objections:**

Foundation, privileged, hearsay and relevance.

4     **Mr. Klag's Responses:**

5     Foundation: The Government prepared this  
document.

6     Privileged: The Government produced this  
7     document in discovery with no claim of privilege  
or other objection.

8     Hearsay: Admission of Party Opponent.  
9     Fed.R.Evid.       801(d)(2)(A), (C) or (D).

10     Relevance: Shows Government did not offer Mr.  
11     Klag a transfer. Fed.R.Evid. 401.

12     **Exhibit Number: 29**

**Exhibit Name: Resume of Frederick Cutler**

13     **Exhibit Number: 30**

**Exhibit Name: Alan S. Quint M.D. Curriculum  
Vitae**

15     **Government's Objections:**

Hearsay, Relevance

16     **Mr. Klag's Response:**

Hearsay: Mr. Cutler and Dr. Quint will personally  
summarize the documents' contents

18     Relevance: Establishes Mr. Cutler's and Dr.  
19     Quint's qualifications as experts. Fed.R.Evid. 702.

20     **Exhibit Number: 35**

**Exhibit Name      July 25, 1996 Letter from  
Ray Quinn to Office Workers' Compensation  
Programs**

23     **Government's Objections:**

Foundation, Hearsay, Relevance

24     **Mr. Klag's Response:**

25     Foundation: The Government prepared this  
document.

27     PLAINTIFF'S RESPONSES TO DEFENDANT'S  
28     OBJECTIONS TO PLAINTFF'S EXHIBIT LIST - 2

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**Exhibit Number: 36**

Hearsay: Admission of Party Opponent.  
Fed.R.Evid. 801(d)(2)(A), (C) or (D).

Relevance: Shows Government's knowledge of Mr. Klag's medical condition. Fed.R.Evid. 401

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6  
**Government's Objection:**

**Exhibit Name: Rule 30(b)(6) Deposition Notice**

Relevance unclear

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8  
**Mr. Klag's Response:**

Since Government does not dispute that all Rule 30(b)(6) deposition testimony was made in a representative capacity, Mr. Klag will withdraw this document.

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10  
**Exhibit Numbers: 37, 50, 51,**  
11  
**52, 53, 54**

**Exhibit Names: Letters from Frank Filopoulos, Christ R. Kuntz, Larry Osborn, Wallace E. Jorgensen, Ruth M. Jaersz and Michael Laveway.**

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**Government's Objection:**

Hearsay

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**Mr. Klag's Response:**

Refreshes witness' recollection. Fed.R.Evid. 803(5).

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**Exhibit Number: 43**

**Exhibit Name: April 6, 1997 Letter from Mr. Klag to General Joe Ballard**

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**Government's Objections:**

Hearsay, Relevance

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**Mr. Klag's Responses:**

Hearsay: Refreshes witness' recollection. Fed.R.Evid. 803(5).

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PLAINTIFF'S RESPONSES TO DEFENDANT'S  
OBJECTIONS TO PLAINTFF'S EXHIBIT LIST - 3  
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Relevance: Describes harassment Mr. Klag experienced and his requests to management to stop the harassment. Fed.R.Evid. 401.

1           **Exhibit Numbers: 46, 47,**  
2           **48 and 49**

**Exhibit Names:** Declarations of Renae L. Hirst,  
Donald Grenesman, Michael Laveway, and  
Shari Coleman

4           **Government's Objection:**

Hearsay

5           **Mr. Klag's Responses:**

6           Refreshes witnesses' recollection. Fed.R.Evid.  
7           803(5).

8           Admission of party opponent (prepared by  
9           Government during administrative investigation of  
Mr Klag's EEO complaint).  
10           Fed.R.Evid.801(d)(2)(B).

11           **Exhibit Number: 55**

**Exhibit Name:** Richard Schatz Expert Witness  
Report

12           **Government's Objections:**

Hearsay; Duplicative

13           **Mr. Klag's Responses:**

14           Hearsay: Refreshes witness' recollection.  
Fed.R.Evid. 803(5).

15           Duplicative: Dr. Schatz is an economist who will  
16           testify to Mr. Klag's economic losses. His report  
will assist the Court and the parties by providing a  
written summary of calculations.

17           **Exhibit Number: 56**

**Exhibit Name:** Declaration of Alan S. Quint

18           **Government's Objection:**

Hearsay

19           **Mr. Klag's Response:**

20           Refreshes witness' recollection. Fed.R.Evid.  
803(5).

21           **Exhibit Number: 57**

**Exhibit Name:** Complaint for Damages and  
Declaratory and Injunctive Relief

22           **Government's Objections:**

23           Relevance and Foundation

24           PLAINTIFF'S RESPONSES TO DEFENDANT'S  
25           OBJECTIONS TO PLAINTFF'S EXHIBIT LIST - 4

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2 Mr. Klag's Responses:

Relevance: Describes certain of the Government's  
conduct at issue in this case. Fed.R.Evid. 401.

3  
4 Foundation: The Government has not explained,  
and Mr. Klag does not understand, this objection.  
5

6 DATED this 23<sup>rd</sup> day of September, 2003.

7 LEE & ISSERLIS, P.S.  
8

9 By \_\_\_\_\_  
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Kenneth Isserlis  
11 Attorneys for the Plaintiff John Klag  
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PLAINTIFF'S RESPONSES TO DEFENDANT'S  
OBJECTIONS TO PLAINTFF'S EXHIBIT LIST - 5

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